

Message Text

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INFO OCT-01 ARA-06 ISO-00 FEA-01 ERDA-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 FPC-01 H-02 INR-07

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SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00 FRB-03 PA-01

PRS-01 XMB-02 OPIC-03 /095 W

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 9010

INFO AMEMBASSY KINGSTON

AMEMBASSY PORT OF SPAIN

AMCONSUL CURACAO

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EO 11652 GDS

TAGS: ENRG, EINV VE

SUBJ: MODIFIED PETROLEUM REVERSION BILL SUBMITTED BY

CHAMBER OF DEPUTIES MINES AND HYDROCARBONS

COMMISSION- FULL CHAMBER DEBATE BEGINS.

REF: A CARACAS 5598, B CARACAS A-96, C CARACAS 4471, D CARACAS 4511, E CARACAS 2963, F CARACAS A-50, G CARACAS 2847, H CARACAS 5602, I CARACAS 5078

1. BEGIN SUMMARY. THE CHAMBER OF DEPUTIES PERMANENT MINES AND HYDROCARBONS COMMISSION DELIVERED ITS REPORT ON THE DRAFT PETROLEUM REVERSION BILL TO THE CHAMBER PRESIDENT ON JUN 2. THE COMMISSION MADE FOURTEEN MODIFICATIONS TO THE DRAFT BILL, SOME OF WHICH WERE REQUESTED BY THE ADMINISTRATION. IT ALSO OFFERED A COMPROMISE VERSION OF THE CONTROVERSIAL ARTICLE FIVE, DESIGNED TO ACHIEVE A POLITICAL CONSENSUS. THE COMPROMISE WAS REJECTED BY THE POLITICAL OPPOSITION, AND DOES NOT HAVE THE SUPPORT OF THE CONFIDENTIAL

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MINISTRY OF MINES AND HYDROCARBONS. IT APPEARS LIKELY THAT

THE ORIGINAL ADMINISTRATION VERSION OF THE ARTICLE WILL BE RESTORED TO THE BILL. OTHER KEY CHANGES INCLUDE A MODIFICATION OF THE GUARANTEE FUND, WHERE-BY CONCESSIONAIRES WILL BE ABLE TO COMPLY WITH THAT OBLIGATION BY UTILIZING THEIR INDEMNIZATION BONDS, AND A MORE WORKABLE SUPERVISORY COMMISSION ARRANGEMENT TO ADMINISTER THE OIL INDUSTRY UNTIL THE HOLDING COMPANY IS ESTABLISHED. THE ADMINISTRATION IS STILL PUSHING FOR ELIMINATION OF THE UNITIZATION AGREEMENT DEDUCTION FROM COMPANSATION, WHICH IT FEELS WOULD UNFAIRLY PUNISH SOME CONCESSIONARIES IN CALCULATING THEIR INDEMNITY RIGHTS. THE ARTICLE COVERING THE EXPIRATION OF THE CONCESSIONS MAY BE ADJUSTED SO THAT THE CONCESSIONS CAN EXPIRE ON DEC 31, 1975, IN ACCORDANCE WITH THE WISHES OF THE MINISTRY OF FINANCE. FULL CHAMBER DEBATE ON THE BILL COMMENCED JUNE 5. END SUMMARY.

2. AFTER TWO MONTHS OF PUBLIC TESTIMONY, STUDY, AND SUS-TAINED ATTEMPTS AT ACHIEVING A CONSENSUS AMONG THE POLITICAL PARTIES, THE CHAMBER OF DEPUTIES PERMANENT MINES AND HYDROCARBONS COMMISSION DELIVERED ITS REPORT ON THE ADMIN-ISTRATON'S PETROLEUM REVERSION BILL TO THE PRESIDENT OF THE CHAMBER ON JUN 2. THE REPORT INCLUDES THE DRAFT BILL, WITH FOURTEEN MODIFICATIONS OF THE TEXT SUBMITTED BY THE ADMINISTRATION TO THE CONGRESS ON MARCH 11, 1975. AN INFORMAL ENGLISH TRANSLATION OF THE BILL IS BEING TRANSMITTED TO THE DEPT (REFAIR B). THE FULL SPANISH TEXT OF THE REPORT WILL BE FORWARDED WHEN AVAILABLE.

3. THE MOST SIGNIGICANT MODIFICATION WAS A COMPROMISE VERSION OF ARTICLE FIVE (REF A). IN AN OBVIOUS ATTEMPT TO ACHIEVE POLITICAL CONSENSUS, THE CHAMBER COMMISSION DRAFTED A NEW ARTICLE FIVE WHICH DEFINES THE SPECIFIC ACTIVITIES IN WICH THE STATE WILL BE PERMITTED TO FORM ASSOCIATION AGREEMENTS WITH FOREIGN GOVTS OR PRIVATE COMPANIES. THE STATE OR ITS ENTITIES MAY JOIN IN ASSOCIATIONS TO TRANSPORT VENEZUELAN CURDE AND PRODUCTS, OR OIL ACQUIRED BY VENEZUELA. IT MAY ALSO CONSTRUCT OR TOTALLY OR PARTICALLY ACQUIRE PRODUCTION AND REFINING INSTALLATIONS IN OTHER COUNTRIES, GIVING PREFERENCE TO THOSE AREAS WHERE LARGE AMOUNTS OF VENEZUELAN CRUDE HAVE BEEN OR ARE BEING PROCESSED, OR WHEREVER TECHNOLOGY

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IS BEING DEVELOPED FOR REFINING OF CRUDES UNDER 21 DEGREE API. THE NEW ARTICLE ALSO ALLOWS FOR ASSOCIATION AGREEMENTS IN PRODUCTION OR REFININIG IN STATES BELONGING TO THE ANDEAN COMMON MARKET, THE LATIN AMERICAN FREE TRADE ASSOCIATIN AND OPEC.

4. IN VENEZUELA, PARTNERSHIP ARRANGEMENTS WOULD HAVE THE PURPOSE OF SECURING TECHNOLOGY FOR PRODUCTION OF NON-

CONVENTIONAL CRUDES WITH THE INTENTION OF REDUCING PRODUCTION OF CONVENTIONAL RESERVES PROPORTIONATELY. THE ARTICLE WOULD ALSO PERMIT REFINING AGREEMENTS FOR PROCESSING HEAVY CRUDES. FOR THE COMPANIES OWNING VENEZUELAN REFINERIES, THE STATE WOULD PERMIT THE COMPANIES TO RETAIN MINORITY EQUITY IN EXCHANGE FOR EQUAL MINORITY EQUITY IN REFINERIES OWNED BY THESE COMPANIES IN THE CARIBBEAN AREA. NO AGREEMENTS COULD RUN MORE THAN FIFTEEN YEARS AND ALL WOULD BE SUBJECT TO PRIOR CONSULTATION AND APPROVAL BY THE NATIONAL CONGRESS. THE ARTICLE CALLS FOR THE SETTING OF ANNUAL PRODUCTION LEVELS IN CONSULTATION WITH CONGRESS, WITH ANY INCREASE IN PRODUCTION OF NON-CONVENTIONAL CRUDE TO BE ACCOMPANIED BY AN EQUAL REDUCTION OF CONVENTIONAL CRUDE PRODUCTION.

5. COMMENT: THE INTERESTING ASPECT OF THIS COMPROMISE ARTICLE IS THE IMPLICATION THAT THE POLITICIANS WHO FORMULATED IT BELIEVE

THAT VENEZUELA MUST BEGIN TO DEVELOP THE ORINOCO HEAVY CRUDE. THEY APPARE TO HAVE TAKEN INTO ACCOUNT THE SHORT LIFESPAN OF PRESENT CONVENTIONAL RESERVES. THOSE ASPECTS OF THE ARTICLE DEALING WITH HEAVY CRUDE COULD BE VIEWED AS AN ATTEMPT TO ATTRACT INVESTMENT IN AND EMPHASIS ON DEVELOPMENT OF THE ORINOCO RESERVES. HOWEVER, THIS IS NOT THE INTERPRETATION THE OIL COMPANIES HAVE GIVEN TO THE ARTICLE. CREOLE AND SHELL OFFICIALS, EXPRESS NO INTEREST TO US IN TRADING OFF MINORITY PARTICIPATION IN THEIR CARIBBEAN REFINERIES. RATHER THAN OFFER AN INCENTIVE, THE ARTICLE APPEARS TO ATTEMPT TO DICTATE OR FORCE DEVELOPMENT OF THE HEAVY CRUDE RESERVES. A SUN OIL COMPANY OFFICIALS, WHOSE COMPANY DOES NOT HAVE A VENEZUELAN REFINERY, JOKINGLY SAID THAT THIS COMPANY WOULD

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HAPPILY SELL ITS PUERTO RICAN REFINERY TO THE GOV, BUT IS NOT INTERESTED IN OFFERING THE GOV A MINORITY PARTICIPATION. END COMMENT.

6. MINISTRY OF MINES TECHNICIANS CONSIDER THE COMPROMISE ARTICLE TO BE UNWORKABLE. THE MINES MINISTER PUBLICLY SAID THAT HE PREFERENCES THE ORIGINAL ADMINISTRATION VERSION OF THE ARTICLE. ; VICE MINISTER HERNAN ANZOLA PREDICTED TO EMBASSY OFFICERS ON JUNE 5 THAT THE ADMINISTRATION VERSION OF ARTICLE FIVE WILL BE RESTORED BEFORE THE BILL BECOMES LAW. BEFORE OFFERING THE COMPROMISE VERSION, THE PRESIDENT OF THE CHAMBER'S MINES AND HYDROCARBONS COMMISSION, CELESTINO ARMAS, COMMENTED THAT IF THE OPPOSITION PARTIES FAILED TO SUPPORT THE COMPROMISE, THEN THE BILL WOULD REVERT TO THE ADMINISTRATION VERSION OF ARTICLE FIVE.

THE OPPOSITION PARTIES HAVE NOT ENDORSED THE COMPROMISE,
AND IT APPEARS THAT IT WILL BE DISCARDED DURING THE
CONGRESSIONAL DEBATE.

7. AN OIL COMPANY SOURCE, COMMENTING ON THE COMPROMISE
ARTICLE FIVE, SAID THAT IT WOULD HAVE THE EFFECT OF
MAKING THE NATIONAL HOLDING COMPANY MERELY AN OPERA-
TIONAL ARM OF THE CONGRESS. HE SAID THAT UNDER THIS

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FM AMEMBASSY CARACAS

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ARTICLE THE HOLDING COMPANY WOULD BE REDUCED TO A PERSONNEL
DEPARTMENT, ONLY MAKING DECISIONS ABOUT HIRING AND FIRING ITS
OWN STAFF, SINCE ALL DECISIONS REGARDING PRODUCTION, REFINING
AND MARKETING WOULD HAVE TO HAVE PRIOR APPROVAL OF THE CONGRESS.
WHILE THIS COMMENT DISTORTS A MORE SERIOUS INTENTION OF THE DRAFTERS
OF THE COMPROMISE (WHICH WAS TO ACHIEVE A POLITICAL CONSENSUS),
EMBASSY SOUNDINGS REVEAL THAT THE SHORTCOMINGS OF THE COMPROMISE
ARE BEGINNING TO BE NOTED.

8. OTHER KEY MODIFICATIONS TOOK INTO ACCOUNT THE WISHES OF THE

MINISTRY OF MINES AND HYDROCARBONS, AS PREDICTED IN REFTEL C. ARTICLE 19 NOW CONTAINS A NEW SUBPARAGRAPH (D), WHICH WILL PERMIT THE OIL CONCESSIONARES TO MEET THEIR OBLIGATION TO THE GUARANTEE FUND, TOTALLY OR PARTICALLY, WITH THEIR COMPENSATION BONDS. THE TIME FRAME FOR COMPLYING WITH THIS OBLIGATION HAS BEEN EXTENDED FROM THIRTY TO SIXTY DAYS. THAT PERIOD IS NOW THE SAME AS THE TIME ALLOWED FOR THE GOV OFFER OF INDEMNIFICATION (45 DAY) AND THE COMPANY RESPONSE (15 DAY). THE CHANGE IS APPARENTLY DESIGNED

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TO FORCE THE COMPANIES TO ACCEPT BONDS IN THE AMOUNT OFFERED IN ORDER TO AVOID HAVING TO MAKE CASH PAYMENTS INTO THE GUARANTEE FUND AT THAT SIXTY DAY DATE. IF THE CONCESSIONAIRES DO NOT AGREE TO THE INDEMNIZATION OFFER, THEN THE PROVISIONS OF ARTICLE 13, WHICH HAVE NOT BEEN MODIFIED, WILL TAKE EFFECT. ARTICLE 13 REQUIRES THE SUPREME COURT TO DETERMINE COMPENSATION.

9. ARTICLE 9, WHICH CREATES THE INTERIM SUPERVISORY COMMISSION, IS UNCHANGED FROM THE ADMINISTRATION VERSION, EXCEPT THAT TWO INSTEAD OF ONE OF THE SEVEN MEMBERS TO BE DESIGNATED BY THE NATIONAL EXECUTIVE SHALL BE SELECTED FROM A LIST SUBMITTED BY THE "MAJORITY" UNION ORGANIZATION. EMBASSY OFFICERS WERE TOLD BY VICE MINISTER OF MINES, HERNAN ANZOLA, ON JUNE 5 THAT THE SEVEN POSITIONS WILL BE CONTROLLED BY THE MINISTRY OF MINES AND HYDROCARBONS, AS FORESEEN IN REFTEL C. THIS WILL KEEP THE OIL INDUSTRY UNDER CONTROL OF GOV PERSONNEL UNTIL THE HOLDING COMPANY IS READY TO TAKE OVER.

10. ONE IMPORTANT MODIFICATION SOUGHT BY THE ADMINISTRATION WAS NOT INCORPORATED IN THE BILL BY THE COMMISSION. THIS CONCERNS ARTICLE 15 (B) PERTAINING TO THE UNITIZATION AGREEMENTS WHICH SEVERAL OF THE SMALLER CONCESSIONAIRES HAVE WITH CVP (REFTEL H, PARA 8). VICE MINISTER ANZOLA ALSO SAID ON JUNE 5 THAT THE MINISTRY WANTS TO HAVE THIS PROVISION DELETED. HE SAID THAT THE MINISTRY HAS TECHNICAL PROOF THAT THE OIL CONCESSIONAIRES HAVE NOT EXTRACTED MORE THAN THEIR SHARE OF OIL FROM FIELDS UNDER THE UNITIZATION AGREEMENTS. AN EFFORT WILL BE MADE DURING THE CONGRESSIONAL DEBATE TO HAVE THIS ARTICLE REMOVED SO THAT THE AFFECTED OIL COMPANIES (PHILLIPS, TEXACO, MOBIL, SUN AND SUN-RAY), WILL NOT HAVE THEIR INDEMNITY PAYMENTS PENALIZED. HOWEVER, HE ADDED THAT THE MATTER HAS BEEN COMPLICATED BY THE PUBLICITY GIVEN TO THE PUBLIC ACCOUNTANTS FEDERATION CLAIM THAT THESE COMPANIES OWE MORE THAN BS 5 BILLION TO CVP.

11. ANOTHER MODIFICATION THAT MAY BE FORTH COMING CONCERNS THE 120 DAY EXPIRATION DATE OF THE CONCESSIONS FOLLOWING THE PROMULGATION OF THE LAW. THE GOV, AND ESPECIALLY THE MINISTRY OF FIANCE, WANTS THE CONCESSIONS TO EXPIRE AT THE END OF THE 1975 FISCAL PERIOD - DECEMBER 31, 1975. ANY INTERIM DATE WOULD COMPLICATE THE BOOKKEEPING PROCESS. THEREFORE, IF THE BILL

BECOMES LAW PRIOR TO SEPTEMBER 1, WHICH IS VERY POSSIBLE, THE
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120 DAY EXPIRATION DATE CONTAINED IN ARTICLE ONE OF THE BILL WILL BE EXTENDEE. THUS, IF THE BILL IS PASSED BY JULY 1, THE EXPIRATION DATE OF THE CONCESSIONS WOULD BE EXTENDED TO 180 DAYS, OR TO 150 DAYS IF PASSED ON AUGUST 1. THE VICE MINISTER OF MINES SAID ON JUNE 5 THAT A DECISION TO MODIFY THE EXPIRATION DATE ARTICLE HAS NOT BEEN DEFINITELY TAKEN BY THE ADMINISTRATION.

12. COMMENT. THE REVERSION BILL HAS NOW ENTERED INTO WHAT IS BEING DESCRIBED BY THE LOCAL PRESS AS THE "DEBATE OF THE CENTURY." IT WILL CERTAINLY BE DEBATED IN THE CHAMBER OF DEPUTIES THROUGHOUT THE MONTH OF JUNE. IT MUST PASS THROUGH ONE READING IN THE CHAMBER, AND THEN THROUGH THE SENATE. IF THERE ARE AMENDMENTS, WHICH THIS MESSAGE INDICATES ARE ALMOST CERTAIN, THEN IT MUST PASS THROUGH A SECOND READING IN BOTH BODIES. SINCE THE OPPOSITION PARTIES HAVE FORMALLY INDICATED THEIR OPPOSITION TO BOTH THE ADMINISTRATION AND CHAMBER MINES COMMISSION VERSIONS OF ARTICLE FIVE, THE MAJORITY AD PARTY APPEARS TO HAVE NO OTHER OPTION THAN TO EXERCISE ITS MAJORITY AND PASS THE BILL. OUR AD SOURCES IN THE CONGRESS ESTIMATE THAT THE BILL WILL NOT EMERGE FROM THERE BEFORE THE LATTER PART OF JULY.

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